



**WTBA Testimony**

**Senate Committee**  
**on Ethics Reform and Government Operations**

**Public Hearing on AJR-34**

**Tom Walker, Director of Government Affairs**  
**February 14, 2008**

Good morning Senator Risser and members of the Committee. Thank you for the opportunity to testify on AJR-34 today.

WTBA is a statewide organization of more than 260 contractors, consultants, and associated businesses. Our members design, build, rehabilitate, improve, reconstruct, expand and modernize every form of transportation infrastructure, including state and local roads and bridges, airports, railroads, and bicycle and pedestrian infrastructure. We look forward to building future transit projects.

WTBA construction company members are family owned Wisconsin businesses and proud to provide family supporting jobs across Wisconsin. These jobs cannot be outsourced; however, they can disappear for lack of funding.

You will not be surprised to learn that WTBA is vitally interested in the integrity of the Transportation Fund. We have spent considerable time thinking about the potential need for constitutional protection of limited transportation revenues, at a time when both our own Legislature and national reports are documenting a transportation infrastructure crisis in all modes.

We applaud the efforts of those Legislators committed to these goals, and specifically want to thank Senator Breske for his leadership as the lead Senate sponsor of AJR-34.

Therefore, you will probably be surprised that we do not support AJR-34. Let me explain why. I will confine my remarks to the area in which we do have some expertise: the State Transportation Fund.

It is our belief that the Transportation Fund is by far the largest of all segregated funds in the entire state budget. What AJR-34 does or does not do is a matter of great interest to all transportation stakeholders.

Our fundamental concern is that while AJR-34 provides some limited protection, it actually does very little as drafted.

Under the resolution, the Transportation Fund would receive Constitutional protection if it exists on the day of ratification. It will apply.

These are the specific concerns we have identified with the resolution:

First, the one seemingly positive protection is that it would prohibit direct transfers from the Transportation Fund to the General Fund, but only if the proposed use of those funds were in conflict with the statutory purpose of the Transportation Fund.

However, the Transportation Fund is created in Section 25.40 of the statutes. It simply catalogues revenues deposited into the fund. There is no existing statutory purpose.

And since that so-called purpose cannot be changed by law under the resolution, how would it be created?

Even if the Legislature created a statutory process, consensus language would be difficult to achieve, and a very broad purpose would likely result. This would then lead to the situation we describe below in our sixth issue.

Second, under the resolution, the Legislature could explicitly abolish the Transportation Fund, and then place its revenues into the General Fund as directed by the resolution. The Legislature would then fund transportation programs just as it does all general fund programs, based on competing priorities.

Third, specific Transportation Fund revenue streams are not protected under this bill, which seems to be a critical omission.

Fourth, it appears that transportation fund revenues collected by the Department of Revenue could be legally sent to the General Fund, prior to depositing them in the Transportation Fund.

Fifth, it appears that the Legislature would be free to redefine one or another current revenue stream from going to the Transportation Fund, instead to the General Fund, temporarily or permanently. The only prohibition is not to transfer existing funds already collected. There is no Transportation Fund balance; therefore, the only option to transfer is future revenues.

Sixth, I want to emphasize that most of the policy debate in the last few years is over whether x or y is a legitimate Transportation Fund expenditure. In the last budget, there was a great deal of discussion over whether \$164 million in proposed appropriations were a diversion or not. A good example is pupil transportation. While we would strongly argue on policy grounds one way, it seems legally plausible that all of these proposed "diversions" can be argued to have some minimal legitimate policy connection to transportation. I do not believe this resolution would have prevented any of them, although the Legislature decided on policy grounds to reject them. How an expenditure can be a conflict or not is undefined.

Given the above, we ask that the Legislature not approve this joint resolution. It clearly does not do for Transportation what many of its advocates believe it does, and diverts attention from the problem needing a solution.

We believe that it is possible to write a constitutional amendment that does provide real constitutional protections to transportation revenues and how they are spent. However, it can only be done in isolation, and not as part of a broad resolution affecting all segregated funds and revenue accounts.

Transportation Fund specific language is imperative for it to work.

We would be happy to discuss this further in a different setting.

I would be happy to answer any questions.



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# J.A. HINES

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STATE REPRESENTATIVE • 42ND ASSEMBLY DISTRICT

## **Testimony in favor of AJR 34 before the Senate Committee on Ethics Reform and Government Operations, February 14, 2008**

Good morning. I want to thank Chairman Risser for giving me the opportunity to testify this morning on such an important piece of legislation, Assembly Joint Resolution 34. I am pleased to be joined by Senator Breske and want to thank him for all of his hard work on this issue.

I want to be perfectly clear from the beginning: this resolution is not simply a knee jerk reaction to the recent transfer from the Injured Patients and Families Compensation Fund (IPFCF) or a response to the budget moves Governor Doyle has made the past few sessions. This is a proposal that Senator Breske and I put together last session because we realized this is a bi-partisan problem that required a bi-partisan solution.

Citizens of this state who are asked to pay a fee for a specific program or service do so in good faith because we tell them their money will be used to fund that specific program or service. The use of that money by the legislature or governor to pay for anything else unrelated is a violation of that trust and is simply wrong.

Raiding segregated funds to plug holes in the budget is a temporary fix and only worsens the situation for future legislatures and governors because the problem is simply passed on to the next budget. With each budget cycle, and with each fund transfer, the problem just gets bigger and bigger, yet we keep doing it.

Not only do we continue to raid these funds, we continue to raise fees and ask more from the people who pay them, yet we give no guarantee the higher fees will lead to the service or program they are intended to pay for.

At some point, we as legislators need to step-up and make the difficult decisions we were sent here to do. We must decide what our priorities are and figure out how we are going to pay for them without setting the stage for a major fiscal crisis down the road. We need to be accountable for our actions and if we truly believe a program or service is essential, then we should be able to defend appropriating from the money we already take in or, a reduction in spending or increasing taxes as a way to pay for it.

Concerns have been raised regarding current transfers, specifically with transfers that are currently authorized under statute by the Department of Veterans Affairs and the Department of Public Instruction. This resolution will not affect any transfers that are currently authorized by law. With this in mind, we as a legislature will have the opportunity to clarify the intent of all the states' segregated fees prior to ratification of this resolution.



The 90-7 vote in the Assembly on December 11, shows that this issue is not partisan and I think that is evidenced by the groups who are not only here to testify in favor of this bill this morning, but the long list who have registered with the Ethics Board as supporting AJR 34.

I urge the committee to join Senator Breske and me in supporting this important measure and urge you to pass AJR 34, as amended in the Assembly, as soon as possible.

Thank you again for your time this morning.



# Wisconsin Medical Society

Your Doctor. Your Health.

TO: Senate Committee on Ethics Reform and Government Operations  
Senator Fred Risser, Chair

FROM: Clarence P. Chou, MD  
President

DATE: February 14, 2008

RE: Support for Assembly Joint Resolution 34

On behalf of more than 11,000 members statewide, the Wisconsin Medical Society asks you to support Assembly Joint Resolution 34, which will protect segregated funds from government incursions. The history surrounding the Injured Patients and Families Compensation Fund (Fund) shows the need for this proposal.

The Fund was first established in 1975 to help physicians and other health care entities gain access to umbrella medical liability insurance. It provides unlimited economic recovery for patients harmed as a result of a medical error. For nearly 30 years the Fund grew into a national success story, helping to position Wisconsin as one of the few states not experiencing a medical liability crisis or near-crisis.

The Fund was first threatened in 2003, when Governor Doyle proposed raiding \$200 million from the Fund for Medicaid spending. The Legislature wisely rejected that idea, and moved legislation to further protect the Fund from future raid attempts. 2003 Act 111 – which passed as 2003 Assembly Bill 487 in the State Assembly 92-6 and the State Senate 29-3 – reemphasized that monies in the Fund are held “in irrevocable trust,” and that the Fund’s assets “may not be used for any other purpose of the state.” Despite this statutory clarification, Governor Doyle tried twice more to raid the Fund – unsuccessfully in 2005, but the Fund could not withstand Governor Doyle’s third attempt. The recently enacted 2007-2009 biennial state budget included a \$200 million taking from the Fund.

Constitutional and legal questions surround the taking, and the Society filed suit against the state on October 29, 2007 to protect the integrity of the Fund. As bipartisan legislation has not adequately protected the Fund (pending resolution of the Society’s lawsuit), a constitutional amendment protecting all segregated funds is a logical step in seeking additional protections for the Fund and other similar accounts.

The Injured Patients and Families Compensation Fund experience is just one example of segregated accounts that have been used contrary to their original purpose. Amending the Wisconsin Constitution is a dramatic action, but a necessary one in this case. Wisconsin’s physicians ask that you support AJR 34. Thank you for your consideration.

## **Testimony in Support of AJR 34**

By Thomas Thoresen, President of the Association of Retired Conservationists and  
President of the Board of Wisconsin League of Conservation Voters

February 14, 2008

Thank you Mr. Chairman and members of the Senate Committee on Ethics Reform and Government Operations. I am Thomas Thoresen and am here today to register my support for AJR 34. Two organizations also endorsed me to register and speak on their behalf. They are The Association of Retired Conservationists and the Wisconsin League of Conservation Voters.

Constitutionally protecting hunting, trapping and fishing fees and conservation stamp funds is a component of the Hunter, Trapper and Angler Bill of Rights. This has been overwhelmingly supported by the public at Conservation Congress Hearings and was selected as one of 4 Conservation priorities by Wisconsin's conservation community for this legislative session. The Association of Retired Conservationists unanimously passed support of AJR 34 and approved the Board to speak on the organizations behalf.

Those of us who were paying attention saw that segregated hunting and fishing stamp money were taken from dedicated funds for other purposes by Joint Finance in last sessions budget deliberations and then narrowly reversed when sportsmen and women found out about the raid. Such raids on dedicated accounts should not happen.

Passage of AJR 34 would restore integrity to natural resource management forbidding raids on all segregated funds, including hunting and fishing fees paid by hunters and anglers with express statutory purpose as habitat restoration and in the case of Pheasant and Great Lakes Stamps stocking.

It was heartening to the Assembly pass this conservation priority 91-6 last December and I ask that this Committee and the Senate allow this issue to go pass this session so it can move forward to the Constitutional protection that so many sportsmen and sportswomen are seeking.

Thank you.



# **Wisconsin Wildlife Federation**

Chairman Risser and Members of the Ethics Reform and Government Operations Committee, thank you for the opportunity to testify here today on behalf of the Wisconsin Wildlife Federation. The Federation is the state's largest conservation organization comprised of 160 hunting, fishing and trapping organizations located throughout the state. We are here today to strongly support Assembly Joint Resolution 34. This proposed Constitutional Amendment provides that funds in a specific state account cannot be lapsed, transferred, or expended in any manner that would conflict with the purpose of the account.

Hunters, anglers and trappers support this amendment because we believe it is important and necessary to protect the special segregated accounts that have established with user fees to fund specific conservation projects. The need to do so is not hypothetical.

In the 2005-2007 budget process, the Joint Finance Committee voted to take \$1.35 million dollars from the Waterfowl Stamp Account, the Turkey Stamp Account and the Great Lakes Trout and Salmon Stamp Accounts to transfer into the general uses permitted in the Conservation Fund. These special stamp accounts, along with the Inland Trout Stamp Account and the Pheasant Stamp Account were created to do specific habitat and stocking related to the specific species identified in the name of the stamp. The creation of these added user fees was done with the strong support of hunters, anglers and trappers but only because they believed that the funds would be spent for that specific purpose.

The hunting, fishing and trapping community was successful in getting the Joint Finance Committee to reverse its vote but only after an overwhelming protest was engaged in by sportsmen and women throughout the state. Because of this incident, a question was placed on the Conservation Congress spring hearing questionnaire as to whether sportsmen and women supported a Constitutional Amendment prohibiting the diversion of conservation funds from their intended purpose. The vote was 3880 in favor of such an amendment and 467 against an amendment.

Stepping back from the specifics of this incident, it is basically a question of whether average citizens can trust their government. Regardless of the purpose of the specific segregated account, Wisconsin citizens are willing to pay extra for specific programs to address specific needs. However when the funds are used for other purposes, people lose confidence and trust in their government. Just stand on the street corner in any city or town in this state and ask the average citizen whether funds collected for a specific purpose should only be spent for that purpose. We would predict that virtually every citizen would say yes.

Please vote for Assembly Joint Resolution 34. On behalf of the Wisconsin Wildlife Federation, thank you again for the opportunity to testify here today.



**TO: Members, Senate Committee on Ethics Reform and Government Operations**

**FROM: Jay Mesrobian, MD**  
**President, Wisconsin Society of Anesthesiologists**

**DATE: February 14, 2008**

**RE: Support for AJR 34**

Thank you for the opportunity to provide comments about Assembly Joint Resolution 34 – a proposed Constitutional Amendment that would prevent future Legislatures or Governors from using “program revenue” for purposes other than those originally intended. We ask for your vote in support of AJR 34.

Under pressure to balance and pass a State Budget this fall, we witnessed lawmakers approve a transfer of funds away from the Injured Patients and Families Compensation Fund. The IPFCF was enacted for a purpose critical to Wisconsin: to provide funds in excess of privately purchased Medical Liability Insurance policies to compensate patients and their families for injuries caused by medical negligence.

Physicians, hospitals and other health providers are required to pay premiums (“assessments”) into the IPFCF each year. The underlying goal of this “umbrella coverage” was to stabilize the medical liability climate in Wisconsin in the hopes of holding ever rising private medical liability insurance rates in check, and encouraging physicians and other providers to remain in Wisconsin. While we have seen physicians flee from other states without a similar program in place, that has not happened in Wisconsin – the IPFCF works.

The IPFCF ensures patients and their families are adequately compensated when injured by medical negligence, and it encourages physicians and other health providers to remain in Wisconsin providing high quality care to our citizens.

No one yet knows how severe an impact the transfer of \$200 million from the IPFCF will have, but the severity of impact is not relevant. Funds in the IPFCF were raised from physicians, hospitals and other health providers under State mandate, for the express purposes of compensating those injured by medical negligence, and keeping Wisconsin’s medical liability insurance rates in check.

Passage and ultimate approval of AJR 34 would protect the IPFCF’s future integrity ensuring the monies are available for those it is intended for, and ensuring Wisconsin can continue to attract top-notch physicians and other health providers to provide care to our citizens. Please vote in support of AJR 34.



**Testimony of Jennifer Giegerich, Capitol Liaison, Wisconsin League of Conservation Voters, Supporting Restoring Conservation Integrity by Adopting Pieces of the Hunter, Trapper, Angler Bill of Rights (AJR 34 and SB 422)  
February 14, 2008**

Good Morning. I am Jennifer Giegerich, Capitol Liaison for the Wisconsin League of Conservation Voters. Thank you for this opportunity to testify in support of Assembly Joint Resolution 34 and Senate Bill 422.

Protecting stamp funds from state budget raids and ensuring timely appointment of members of the Department of Natural Resources (DNR) Board are two components of the Hunter, Angler, Trapper Bill of Rights, which was selected as one of four Conservation Priorities by Wisconsin's conservation community for this legislative session. As a Conservation Priority, it has the support of more than 50 diverse organizations and thousands of citizens around the state.

The conservation community supports AJR 34 as one piece of the Hunter, Trapper, Angler Bill of Rights because raids on the stamp funds are a breach of the faith placed in the state by sportsmen and women who choose to pay a cost above and beyond the typical sports license to support wildlife programs. In 2005, the Joint Finance Committee voted to transfer \$1.35 million dollars from the Waterfowl, Turkey and Great Lakes Salmon Stamp accounts. These stamps, along with the Inland Trout and Pheasant Stamps, are purchased by hunters and anglers at additional cost for the statutorily stated purposes of habitat restoration. In the case of the Pheasant and Great Lakes stamps, the fees are also to be used for stocking wildlife. The Fish and Wildlife Account, where the stamp fees were transferred, are used for purposes unrelated to habitat and stocking. It is an understatement to say that hunters, anglers, and trappers are extremely upset about recent raids by the Joint Finance Committee.

A second piece of the Hunter Trapper Angler Bill of Rights before you today is SB 422 which ensures the timely appointment of Natural Resource Board Appointments. The seven-citizen Natural Resource Board was set up with staggered six-year terms for its member to ensure that there are not abrupt changes in natural resource decision-making when the Governorship changes. The goal is to temper the potential change in management philosophy with the experiences of the continuing members of the Natural Resources Board.

In recent years, Natural Resource Board appointments have been delayed by as much as three to four years, virtually nullifying the philosophy upon which the board is based. The Senate will sometimes intentionally delay the appointment of certain NRB members to place political pressure on the nominees to change natural resource policies. This is the antithesis of what the members of the conservation community, across all political ideologies believe.

Given how deeply the typical Wisconsin conservation voter cares about these very important issues, we ask you to please support AJR 34 and SB 422.

Thank you.

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*The Wisconsin League of Conservation Voters (WLCV) is a nonprofit, nonpartisan organization dedicated to electing conservation leaders to the state legislature and encouraging lawmakers to champion conservation policies that effectively protect Wisconsin's public health and natural resources.*



## **Wisconsin Academy of Family Physicians**

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**TO:** Chairman Risser and members of the Senate Ethics Reform and Government Operations Committee

**FROM:** Dr. Lowell Keppel, President - Wisconsin Academy of Family Physicians

**DATE:** February 14, 2008

**RE:** Written testimony on Assembly Joint Resolution 34

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Chairman Risser and members of the Committee, thank you for the opportunity to provide testimony today on Assembly Joint Resolution 34. On behalf of the Wisconsin Academy of Family Physicians, I would urge your support for this important measure that will help restore fiscal responsibility to state government.

As you know, AJR 34 is a proposed constitutional amendment that would prohibit any lapse, transfer or expenditure from a state segregated fund or account that would conflict with the purpose of the fund or account. The Academy strongly supports AJR 34, as we believe the practice of raiding segregated funds is fiscally unsound and is a violation of the good faith of Wisconsin citizens.

From a physician's perspective, the need to constitutionally protect segregated funds was clearly evident when \$200 million was transferred from the Injured Patients and Families Compensation Fund (IPFCF) as part of the state budget bill. The Fund, financed by assessments on health care providers, is used to pay medical liability awards to injured patients and their families.

The raid has already jeopardized the solvency of the IPFCF and could destabilize the state's medical liability climate, which would make Wisconsin an unattractive place to practice medicine.

According to the Department of Administration, the initial transfer from the IPFCF (\$71.5 million), which occurred just one day after the state budget was signed into law, left the Fund with a negative balance of \$46.2 million and forced its managers to borrow tens of millions of dollars in cash – **with interest** – from other state accounts to meet its obligations.

Assembly Joint Resolution 34 would prohibit these ill-advised transfers from segregated funds and help restore integrity to Wisconsin's fiscal management. By constitutionally protecting state segregated funds and accounts, AJR 34 will ensure fees or assessments paid by citizens for a specific program will be utilized for the sole purpose and benefit of that program – and uphold the state's "agreement" with its citizens.

Again, the Wisconsin Academy of Family Physicians requests your support for Assembly Joint Resolution 34.

Thank you.

The Wisconsin Academy of Family Physicians represents over 2,200 family medicine practitioners statewide. The WAFP was established in 1948 to promote and maintain high professional and ethical standards in the practice of Family Medicine, to encourage young people to prepare for active careers in Family Medicine and to help provide continuing education to family physicians.